

Holders shall have any right in any manner whatever by virtue of, or by availing of, any provisions of this Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders.

Notwithstanding any other provision hereof, the right of the Parity Securityholders, which is absolute and unconditional, to receive payment of the principal of and the interest and premium (if any) on the Parity Securities on or after the due date of the same, but solely from the sources of payment provided herein, as therein and herein expressed, or to institute suit for the enforcement of such payment on or after such due date, or the obligation of the County, which is also absolute and unconditional, to pay, but solely from the said sources of payment, the principal of and the interest on the Parity Securities to the respective Holders thereof at the time and place in the Parity Securities expressed, shall not be impaired or affected without the consent of such Holder; provided, however, that no Parity Securityholder shall be entitled to take any action or institute any such suit to enforce the payment of his Parity Securities, whether for principal or interest, if and to the extent that the taking of such action or the institution or prosecution of any such suit or the entry of judgment therein would under applicable law result in a surrender, impairment, waiver or loss of the lien hereof upon the revenues from the System, or any part thereof, as security for the Parity Securities held by any other Parity Securityholder.

Section 13.7 Remedies Cumulative. No remedy herein conferred upon or reserved to the Trustee or to the Parity Securityholders is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 13.8 Delay or Omission Not a Waiver. No delay or omission of the Trustee or any Parity Securityholder to exercise any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or the Parity Securityholders may be exercised from time to time and as often as may be deemed expedient by the Trustee or the Parity Securityholders.

Section 13.9 Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Indenture may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Indenture are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render the Indenture invalid or unenforceable.

Section 13.10 Waivers of Past Defaults Under the Indenture. The Holders of not less than a majority in aggregate principal amount of the outstanding Parity Securities may, on behalf

of the Holders of all outstanding Parity Securities, waive any past default under this Indenture and its consequence, except for the following types of defaults:

- (a) any default in the payment of the principal of or interest or premium (if any) on any Parity Security, or
- (b) any default or failure in respect of any covenant or provision of this Indenture which under Article XIV hereof cannot be modified or amended without the consent of the Holder of each outstanding Parity Security affected.

Upon any such waiver, such default shall cease to exist, and an Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

ARTICLE XIV

THE TRUSTEE

Section 14.1 **Certain Duties and Responsibilities.** (a) Except during the continuance of an Event of Default,

- (i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

- (ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

- (b) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

- (c) No provision of this Indenture shall be construed to relieve the Trustee from its own gross negligence or its own willful misconduct, except that

- (i) this subsection shall not be construed to limit the effect of subsection (a) of this section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a responsible officer or officers of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in aggregate principal amount of the outstanding Parity Securities of each series relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this section.

Section 14.2 Notice of Defaults. Within ninety (90) days after the occurrence of any Event of Default the Trustee shall give notice by registered or certified mail to the Parity Securityholders of such Event of Default known to the Trustee; provided, however, that except in the case of a default in the payment of the principal of or interest or premium (if any) on any Parity Securities, the Trustee shall be protected in withholding such notice if and so long as a responsible officer of the Trustee in good faith determines that the withholding of such notice is in the interests of the Parity Securityholders.

Section 14.3 Certain Rights of the Trustee. Except as otherwise provided in Section 14.1 hereof:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, warrant or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, election, order or demand of the County shall be sufficiently evidenced by an instrument signed in the name of the County by the President or other presiding officer of the Governing Body (unless otherwise in this Indenture specifically prescribed), and any resolution of the County may be

evidenced to the Trustee by a copy thereof certified by the Minute Book Clerk of the County;

(c) the Trustee may consult with Independent Counsel and the written advice or opinion of such Independent Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(d) whenever, in the administration of the trust of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a certificate of the County, and such certificate of the County shall, in the absence of negligence or bad faith on the part of the Trustee, be full warranty to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof;

(e) the Trustee shall be under no obligation to exercise any of the rights, powers or remedies vested in it by this Indenture at the request or direction of any of the Parity Securityholders pursuant to this Indenture, unless such Parity Securityholders shall have furnished to the Trustee satisfactory indemnity for the reimbursement of all expenses to which it may be put and to protect it against all liability which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys, and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

Section 14.4 Trustee not Responsible for Certain Matters Respecting Parity Securities or Security Therefor. The recitals contained herein and in the Parity Securities, except the Trustee's certificate of authentication and its recital of its authority to accept the trusts hereof, shall be taken as the statements of the County, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Parity Securities. The Trustee is not responsible for the recording of this Indenture or for the payment of taxes, charges, assessments and liens upon the System, or for insuring the System or the maintenance thereof, or for the sufficiency of the security for the Parity Securities.

Section 14.5 Trustee May Hold Parity Securities. The Trustee, in its individual or any other capacity, may become the Holder or pledgee of Parity Securities and may otherwise deal with the County with the same rights it would have if it were not Trustee hereunder.

Section 14.6 Right of the Trustee to Perform Certain Acts on Failure of the County. In case the County shall fail seasonably to pay or to cause to be paid any tax, assessment, or governmental or other charge upon any part of the System or the premiums on insurance on the System or the expenses of maintaining or preserving the System, the Trustee may pay such tax, assessment, governmental charge, premiums or expenses without prejudice, however, to any rights of the Trustee or the Parity Securityholders arising in consequence of such failure; and any amount at any time so paid under this section, with interest thereon from the date of payment at the Trustee's prime lending rate plus two percent (2%) per annum or the maximum rate of interest allowed by law, whichever is less, shall be repaid by the County upon demand, and shall become additional indebtedness secured by this Indenture, but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Holders of not less than twenty-five percent (25%) of the aggregate principal amount of the outstanding Parity Securities and shall have been provided with adequate funds for the purpose of such payment.

Section 14.7 Compensation of the Trustee; Lien Therefor. The Trustee shall have a lien on the revenues of the System and all funds held or collected by the Trustee as such (except funds held in trust for the benefit of the Holders of particular Parity Securities) with right of payment prior to payment on account of interest, principal or premium (if any) of any Parity Security, for reasonable compensation for all services rendered by it hereunder and for all reasonable expenses, advances, disbursements and counsel fees incurred or made in and about the execution of the trusts hereby created and exercise and performance of the powers and duties of the Trustee hereunder and the cost and expense incurred in defending against any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the negligence or willful default of the Trustee).

Section 14.8 Resignation and Removal of the Trustee; Appointment of Successor. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this article shall become effective until the acceptance of appointment by the successor Trustee under Section 14.9 hereof.

The Trustee may resign at any time by giving written notice thereof to the County. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

The Trustee may be removed at any time (a) by the Holders of a majority in aggregate principal amount of the outstanding Parity Securities by an instrument or instruments in writing

delivered to the Trustee and to the County or (b) by the County, if no Event of Default exists, by written notice delivered to the Trustee.

If at any time the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then (i) the County may remove the Trustee, or (ii) any Parity Securityholder who has been a Parity Securityholder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the County shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by the Holders of a majority in aggregate principal amount of the outstanding Parity Securities of each series by an instrument or instruments in writing delivered to the County and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the County. If no successor Trustee shall have been so appointed by the County or the Parity Securityholders and accepted appointment in the manner hereinafter provided, any Parity Securityholder who has been a Parity Securityholder for at least six months may, on behalf of himself and all other similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

The County shall give notice by registered or certified mail to the Holders of all outstanding Parity Securities and to each Rating Agency of each resignation and each removal of the Trustee and each appointment of a successor Trustee. Each notice shall include the name and address of the principal corporate trust office of the successor Trustee.

Section 14.9 Acceptance of Appointment by Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the County and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the estate and title of the retiring Trustee to the Trust Estate and all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the County or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the estate and title of the retiring Trustee to the Trust Estate and all the rights, powers, and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject nevertheless to its lien, if any, provided for in Section 14.7 hereof. Upon request of any such successor Trustee, the County shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such estate, title, rights, powers and trusts.

Section 14.10 **Merger or Consolidation of the Trustee.** Any corporation or association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Parity Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Parity Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Parity Securities.

Section 14.11 **Paying Agents.** (a) Any Paying Agent other than the Trustee shall signify its acceptance of such appointment and its assumption of the duties and obligations imposed upon it by this Indenture by execution and delivery of an agreement satisfactory to the Trustee and the County.

(b) Any Paying Agent may resign at any time by giving 30 days' notice to the County and the Trustee; provided, however, that no such resignation shall become effective until a successor Paying Agent has been appointed and has accepted its duties and obligations hereunder.

(c) The County may, with the consent of the Trustee (if such Paying Agent is other than the Trustee), remove any Paying Agent by giving 30 days' notice to such Paying Agent; provided, however, that no such removal shall be effective until a successor Paying Agent has been appointed and has accepted its duties and obligations hereunder.

(d) If any Paying Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Paying Agent for any cause, the County shall appoint a successor Paying Agent.

(e) Any Paying Agent shall (i) be a commercial bank with trust powers or a trust company, (ii) have a combined capital and surplus of at least \$50,000,000, and (iii) be subject to supervision and examination by federal or state authority.

(f) Compensation of any Paying Agent shall be paid directly by the County.

(g) The provisions of the Indenture shall be applicable to any Paying Agent.

ARTICLE XV
AMENDMENTS AND SUPPLEMENTS
TO THE INDENTURE

Section 15.1 Supplemental Indentures Without Consent of Parity Securityholders.
Without the consent of or any notice to any Parity Securityholders, the County and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(a) to add to the covenants of the County for the benefit of the Parity Securityholders, or to surrender any right or power herein conferred upon the County; or

(b) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions which shall not be inconsistent with the provisions of this Indenture, provided such action shall not adversely affect the interests of the Parity Securityholders; or

(c) to subject to this Indenture additional revenues, properties or collateral; or

(d) to authorize the issuance of Additional Parity Securities; or

(e) to grant to or confer or impose upon the Trustee for the benefit of the Parity Securityholders any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with the Indenture as theretofore in effect, provided that no such additional liabilities or duties shall be imposed upon the Trustee without its consent; or

(f) to authorize a different denomination or denominations of the Series 1997 Warrants or Series 1997-C Warrants and to make correlative amendments and modifications to the Indenture regarding exchangeability of Series 1997 Warrants or Series 1997-C Warrants of different denominations, redemptions of portions of Series 1997 Warrants or Series 1997-C Warrants of particular denominations and similar amendments and modifications of a technical nature; or

(g) to modify, alter, amend or supplement the Indenture in any other respect which is not materially adverse to the Parity Securityholders and which does not involve a change described in Section 15.2 hereof.

Before the County and the Trustee shall enter into any Supplemental Indenture pursuant to this section, there shall have been delivered to the Trustee an opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by the Indenture and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon the County in accordance with its terms and will not adversely affect the exemption from federal income taxation of interest on the Series 1997-A Warrants.

Section 15.2 Supplemental Indentures With Consent of Parity Securityholders. With the consent of the Holders of not less than a majority in aggregate principal amount of the outstanding Parity Securities, the County and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Parity Securityholders under the Indenture; provided, however, that no such Supplemental Indenture shall, without the consent of the Holder of each outstanding Parity Security adversely affected thereby,

(1) change the security for, the stated maturity or mandatory redemption date of the principal of, or any installment of interest on, any Parity Security, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, change the coin or currency in which any Parity Security or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the stated maturity thereof (or, in the case of redemption, on or after the redemption date), or

(2) reduce the percentage in principal amount of the outstanding Parity Securities, the consent of whose Holders is required for any such Supplemental Indenture, or

(3) eliminate or modify any provision of the Indenture, the elimination or modification of which by its terms requires the consent of the Holder of each Parity Security affected thereby, or

(4) create a lien or charge on the revenues from the System ranking prior to or on a parity of lien with the lien and pledge thereon contained herein (other than for Additional Parity Securities), or

(5) establish preference or priority as between the Parity Securities.

It shall not be necessary for any written consent of any Parity Securityholder under this section to approve the particular form of any proposed Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof.

If at any time the County shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this section, the Trustee shall, upon being satisfactorily

indemnified with respect to expenses, cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Parity Securityholder. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by all Parity Securityholders. Except in the case of a Supplemental Indenture requiring the consent of the Holder of each outstanding Parity Security adversely affected thereby, if the Holders of not less than a majority in aggregate principal amount of the Parity Securities of each series outstanding at the time of the execution of any Supplemental Indenture shall consent to and approve the execution thereof as herein provided, no Parity Securityholder shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the County from executing the same or from taking any action pursuant to the provisions thereof.

Before the County and the Trustee shall enter into any Supplemental Indenture pursuant to this section, there shall have been delivered to the County and the Trustee an opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by the Indenture and the Act, complies with their respective terms, will be valid and binding upon the County in accordance with its terms and will not adversely affect the exemption from federal income taxation of interest on the Series 1997-A Warrants.

Section 15.3 Discretion of the Trustee. In the case of any amendments or supplements authorized under the provisions of this article, the Trustee shall be entitled to exercise its discretion in determining whether or not any proposed amendment or supplement, or any term or provision therein contained, is proper or desirable, having in view the purposes of such instrument, the needs of the County and the System and the rights and interests of the Parity Securityholders, and the Trustee shall not be under any responsibility or liability to the County or to any Parity Securityholder or to anyone whomsoever for any act or thing which it may in good faith do or decline to do under the provisions of Sections 15.1 and 15.2 hereof. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an opinion of Independent Counsel acceptable to it as conclusive evidence that any such amendment or supplement complies with the provisions hereof and that the Trustee is authorized hereunder to join in the execution of or consent to such amendment or supplement. The Trustee may, but shall not be obligated to, enter into any Supplemental Indenture which affects the Trustee's own rights, duties or immunities under the Indenture.

Section 15.4 Effect of Supplemental Indentures. Upon the execution of any Supplemental Indenture under this article, this Indenture shall be modified in accordance therewith and such Supplemental Indenture or supplement or amendment shall form a part of the Indenture for all purposes; and every Holder of any Parity Security theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

ARTICLE XVI
PAYMENT AND CANCELLATION OF
THE PARITY SECURITIES
AND SATISFACTION OF THE INDENTURE

Section 16.1 **Satisfaction of Indenture.** Whenever the principal of and the interest and premium (if any) on the Parity Securities and the fees, charges and disbursements of the Trustee for services performed hereunder shall have been fully paid and the County shall have performed and observed all the covenants and promises expressed in the Parity Securities and in the Indenture to be performed and observed by it or on its part, the Trustee shall, at the expense of the County, cancel, satisfy and discharge the lien of the Indenture and shall execute and deliver to the County such instruments as shall be requisite to satisfy of record the lien hereof. For purposes of the Indenture (except as may herein be expressly provided otherwise), any of the Parity Securities shall be deemed to have been fully paid when there shall have been irrevocably deposited with the Trustee for payment thereof the entire amount (principal, interest and premium, if any) due or to become due thereon until and at maturity, and, further, any Parity Securities subject to redemption shall also be deemed to have been fully paid when the County shall have deposited with the Trustee the following:

- (a) the applicable redemption price in cash of such Parity Securities, including the interest that will mature thereon to the earliest date on which they may, under the terms of the Indenture, be redeemed, and
- (b) a certified copy of a Resolution calling such Parity Securities for redemption (if, under the terms of Section 6.1 hereof, the adoption of such a Resolution is required).

In addition, any of the Parity Securities shall, for all purposes of the Indenture (except as may herein be expressly provided otherwise), be considered as fully paid if the Trustee shall be provided with each of the following:

- (1) a trust agreement between the County and the Trustee making provision for the retirement of such Parity Securities by creating for that purpose an irrevocable trust fund sufficient to provide for payment and retirement of such Parity Securities (including payment of the interest that will mature thereon until and on the dates they are retired, as such interest becomes due and payable), either by redemption prior to their respective maturities, by payment at their respective maturities or by payment of part thereof at their respective maturities and redemption of the remainder prior to their respective maturities, which said trust fund shall consist of (i) Permitted Defeasance Obligations which are not subject to redemption prior to their respective maturities at the option of the issuer and which, if the principal thereof and the interest thereon are paid at their respective maturities, will produce funds sufficient so to provide for payment and retirement of all such Parity

Securities, or (ii) both cash and such Permitted Defeasance Obligations which together will produce funds sufficient for such purpose, or (iii) cash sufficient for such purpose; provided, however, that said trust agreement shall require the Trustee to keep all cash held on deposit in such trust fund continuously secured by holding on deposit, as collateral security, Permitted Defeasance Obligations having a market value not less than the amount of cash on deposit in such trust fund;

(2) a certified copy of a Resolution calling for redemption those of such Parity Securities that, according to said trust agreement, are to be redeemed prior to their respective maturities (if, under the terms of Section 6.1 hereof, the adoption of such a Resolution is required);

(3) a certificate of a firm of certified public accountants stating that, if the principal of and the interest on the Permitted Defeasance Obligations (if any) forming part of the trust fund provided for in the preceding subparagraph (1) are paid on the respective due dates of such principal and interest, said trust fund will produce funds sufficient to provide for the full payment and retirement of such Parity Securities; and

(4) an opinion of Bond Counsel to the effect that the execution and effectuation of the trust agreement referred to in the preceding subparagraph (1) will not result in subjecting the interest income on such Parity Securities to federal income taxation.

The Trustee is hereby irrevocably authorized to give notice, in accordance with the applicable requirements of Article VI hereof, of any redemption of Parity Securities to be effected in connection with arrangements made pursuant to the provisions of this Section 16.1.

If a trust fund of the type described in subparagraph (1) of the preceding paragraph is established for payment of less than all of the Parity Securities of a particular series and maturity, the particular Parity Securities (or portions thereof) of such series and maturity to be paid from such trust fund shall be selected by the Trustee within seven days after such trust fund is established and shall be identified by a separate CUSIP number or other designation satisfactory to the Trustee. The Trustee shall notify Holders whose Parity Securities (or portions thereof) have been selected for payment from such trust fund and shall direct such Holders to surrender their Parity Securities to the Trustee in exchange for replacement securities with an appropriate CUSIP number and corresponding series and maturity designation.

Section 16.2 Destruction of Surrendered Parity Securities. Upon the surrender to the Trustee of any mutilated Parity Securities, or Parity Securities transferred or exchanged for other Parity Securities, or Parity Securities redeemed or paid at maturity by the County, such Parity Securities shall forthwith be cancelled and destroyed by the Trustee, which shall deliver its certificate confirming such destruction to the County.

Section 16.3 **Release of Funds Upon Payment of Parity Securities.** Any amounts remaining in any of the Indenture Funds after payment in full of the Parity Securities, the fees, charges and expenses of the Trustee and all other amounts required to be paid hereunder shall be paid to the County.

ARTICLE XVII

PROVISIONS CONCERNING THE INSURANCE POLICY

Section 17.1 **Payments Under the Insurance Policy.** (a) If, on the third day preceding any Interest Payment Date for the Series 1997 Warrants, there is not on deposit with the Trustee sufficient moneys available to pay all principal of and interest on the Series 1997 Warrants due on such date, the Trustee shall immediately notify the Bond Insurer and State Street Bank and Trust Company, N.A., New York, New York, or its successor as the Bond Insurer's Fiscal Agent (the "Fiscal Agent"), of the amount of such deficiency. If, by said Interest Payment Date, the County has not provided the amount of such deficiency, the Trustee shall simultaneously make available to the Bond Insurer and to the Fiscal Agent the registration books for the Series 1997 Warrants maintained by the Trustee. In addition:

(i) the Trustee shall provide the Bond Insurer with a list of the Holders of the Series 1997 Warrants entitled to receive principal or interest payments from the Bond Insurer under the terms of the Insurance Policy and shall make arrangements for the Bond Insurer and its Fiscal Agent (1) to mail checks or drafts to Warrantholders entitled to receive full or partial interest payments from the Bond Insurer and (2) to pay principal of the Warrants surrendered to the Fiscal Agent by the Warrantholders entitled to receive full or partial principal payments from the Bond Insurer; and

(ii) the Trustee shall, at the time it makes the registration books available to the Bond Insurer, notify Warrantholders entitled to receive payment of principal of or interest on the Series 1997 Warrants from the Bond Insurer (1) as to the fact of such entitlement, (2) that the Bond Insurer will remit to them all or part of the interest payments coming due subject to the terms of the Insurance Policy, (3) that, except as provided in paragraph (b) below, in the event that any Warrantholder is entitled to receive full payment of principal from the Bond Insurer, such Warrantholder must tender his Series 1997 Warrant to the Fiscal Agent with the instrument of transfer in the form provided on the Series 1997 Warrant executed in the name of the Bond Insurer, and (4) that, except as provided in paragraph (b) below, in the event that such Warrantholder is entitled to receive partial payment of principal from the Bond Insurer, such Warrantholder must tender his Series 1997 Warrant for payment first to the Trustee, which shall note on such Series 1997 Warrant the portion of principal paid by the Trustee, and then, with an acceptable

form of assignment executed in the name of the Bond Insurer, to the Fiscal Agent, which will then pay the unpaid portion of principal to the Warrantholder subject to the terms of the Insurance Policy.

(b) In the event that the Trustee has notice that any payment of principal of or interest on a Series 1997 Warrant has been recovered from a Warrantholder pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee shall, at the time it provides notice to the Bond Insurer, notify all Holders of Series 1997 Warrants that, in the event that any Warrantholder's payment is so recovered, such Warrantholder will be entitled to payment from the Bond Insurer to the extent of such recovery, and the Trustee shall furnish to the Bond Insurer its records evidencing the payments of principal of and interest on the Series 1997 Warrants which have been made by the Trustee and subsequently recovered from Warrantholders, and the dates on which such payments were made.

(c) The Bond Insurer shall, to the extent it makes payment of principal of or interest on the Series 1997 Warrants, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy and, to evidence such subrogation, (1) in the case of subrogation as to claims for past due interest, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books maintained by the Trustee upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Holders of such Series 1997 Warrants and (2) in the case of subrogation as to claims for past due principal, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books for the Series 1997 Warrants maintained by the Trustee upon receipt of proof of the payment of principal thereof to the Holders of such Series 1997 Warrants. Notwithstanding anything in the Indenture or the Series 1997 Warrants to the contrary, the Trustee shall make payment of such past due interest and past due principal directly to the Bond Insurer to the extent that the Bond Insurer is a subrogee with respect thereto.

Section 17.2 Information to be Provided to the Bond Insurer. The Bond Insurer shall be provided with the following information:

(a) within 180 days after the end of each Fiscal Year of the County, a copy of the County's budget for the then current Fiscal Year, a copy of the County's annual audited financial statements for the most recently completed Fiscal Year, a statement of the amount on deposit in the Reserve Fund as of the last valuation and, if not presented in the audited financial statements, a statement of the net revenues pledged to payment of the Parity Securities for the most recently completed Fiscal Year;

(b) the Official Statement or other disclosure document, if any, prepared in connection with the issuance of additional debt instruments payable from the System Revenues, whether or not such instruments constitute Additional Parity Securities, within 30 days after the sale thereof;

(c) notice of any draw upon, or any deficiency due to market fluctuation in the amount on deposit in, the Reserve Fund;

(d) notice of the redemption, other than mandatory sinking fund redemption, of any of the Parity Securities, including the principal amount, maturities and CUSIP numbers thereof;

(e) simultaneously with the delivery of the County's annual audited financial statements:

(i) the number of System users as of the end of the most recently completed Fiscal Year;

(ii) notification of the withdrawal of any System user responsible for 5% or more of System Revenues since the last reporting date;

(iii) any significant plant retirements or expansions planned or undertaken in the System's service area since the last reporting date;

(iv) maximum and average daily System usage for the most recently completed Fiscal Year;

(v) any updated capital plans for expansion and improvement projects; and

(vi) results of any annual engineering inspections.

(f) such additional information as the Bond Insurer may reasonably request from time to time.

Section 17.3 Miscellaneous Special Provisions Respecting the Bond Insurer and the Bond Insurance Policy. (a) In determining whether a payment default has occurred or whether a payment on the Series 1997-A Warrants or Series 1997-B Warrants has been made under the Indenture, no effect shall be given to payments made under the Insurance Policy.

(b) The Bond Insurer shall receive immediate notice of any default in payment of principal of or interest on the Series 1997 Warrants and notice of any other Event of Default known to the Trustee within 30 days of the Trustee's knowledge thereof.

(c) For all purposes of Article XIII of the Indenture, except the giving of notice of default to Warrantholders, the Bond Insurer shall be deemed to be the sole holder of the Series 1997 Warrants it has insured for so long as it has not failed to comply with its payment obligations under the Bond Insurance Policy.

(d) No resignation or removal of the Trustee shall become effective until a successor has been appointed and has accepted the duties of Trustee. The Bond Insurer shall be furnished with written notice of the resignation or removal of the Trustee and the appointment of any successor thereto.

(e) The Bond Insurer shall be treated as a party in interest and as a party entitled to (i) notify the Trustee of the occurrence of an Event of Default and (ii) request the Trustee to intervene in judicial proceedings that affect the Series 1997 Warrants or the security therefor.

(f) Any amendment or supplement to the Indenture shall be subject to the prior written consent of the Bond Insurer. The Bond Insurer shall be deemed to be the holder of all outstanding Series 1997 Warrants for the purpose of consenting to any proposed amendment or supplement to the Indenture (except for any such amendment or supplement that, under the provisions of the Indenture, requires the consent of the Holder of each outstanding Series 1997 Warrant). Any rating agency rating any of the Series 1997-A Warrants or Series 1997-B Warrants must receive notice of each amendment or supplement hereafter executed and a copy thereof at least fifteen days in advance of its execution or adoption.

(g) The Bond Insurer shall be provided with a full transcript of all proceedings relating to the execution of any Supplemental Indenture hereafter executed.

(h) Any notices to the Bond Insurer or the Fiscal Agent pursuant to the Indenture shall be sent to the following addresses (unless and until different addresses are specified in writing to the County and the Trustee):

Financial Guaranty Insurance Company
115 Broadway
New York, New York 10006
Attention: General Counsel

State Street Bank and Trust Company, N.A.
61 Broadway
New York, New York 10006
Attention: Corporate Trust Department

ARTICLE XVIII

MISCELLANEOUS PROVISIONS

Section 18.1 **Disclaimer of General Liability.** It is hereby expressly made a condition of the Indenture that any agreements, covenants or representations herein contained or contained in the Parity Securities do not and shall never constitute or give rise to any personal or general pecuniary liability or charge against the general credit or taxing powers of the County, and in the

event of a breach of any such agreement, covenant or representation, no personal or general pecuniary liability or charge payable directly or indirectly from the general revenues of the County shall arise therefrom. Nothing contained in this section, however, shall relieve the County from the observance and performance of the several covenants and agreements on its part herein contained.

Section 18.2 **Counterparts.** The Indenture may be executed in several counterparts, and each executed copy shall constitute an original instrument but such counterparts shall together constitute but one and the same instrument.

Section 18.3 **Notices.** All notices, demands and requests to be given or made hereunder shall be deemed sufficient and properly given or made if in writing and sent by United States first class mail, postage prepaid, or sent by an electronic method capable of producing a written document, addressed as follows:

(a) If to the County:

Jefferson County
Jefferson County Courthouse
Birmingham, Alabama 35203
Attention: President of County Commission

(b) If to the Trustee:

AmSouth Bank of Alabama
Post Office Box 11426
Birmingham, Alabama 35202
Attention: Corporate Trust Department

The County and the Trustee may, by like notice, designate any further or different addresses to which subsequent notices shall be sent.

Section 18.4 **Retention of Moneys for Payment of Parity Securities.** Should any of the Parity Securities not be presented for payment when due, whether by maturity or otherwise, or should it be impossible for the Trustee to pay the interest on any of the Parity Securities as such interest becomes due, the Trustee shall, subject to the provisions of any applicable escheat or other similar law, retain from any moneys transferred to it for the purpose of paying the principal of and the interest and premium (if any) on such Parity Securities, for the benefit of the Holders thereof, a sum of money sufficient to pay such principal and premium (if any) when the appropriate Parity Securities are presented by the Holders thereof for payment and to pay such interest when it becomes possible to do so (upon which sum the Trustee shall not be required to pay interest). All liability of the County to the Holders of such Parity Securities and all rights of such Holders against the County under such Parity Securities or under the Indenture in respect of such principal, interest